

• **In the claims:**

Please **AMEND** the claims as follows:

F<sub>1</sub>

11. (TWICE AMENDED) The electrode assembly of claim 10, wherein the second length is about 90%, about 80%, about 70%, about 60%, about 50%, about 40%, about 30%, about 20%, about 15%, about 10%, or about 5% shorter than the first length.

F<sub>2</sub>

29 (TWICE AMENDED) The electrode assembly of claim 28, wherein the second length is about 90%, about 80%, about 70%, about 60%, about 50%, about 40%, about 30%, about 20%, about 15%, about 10%, or about 5% shorter than the third length.

F<sub>3</sub>

38. (TWICE AMENDED) The electrode assembly of claim 37, wherein the second length is about 90%, about 80%, about 70%, about 60%, about 50%, about 40%, about 30%, about 20%, about 15%, about 10%, or about 5% shorter than the first length.

**REMARKS**

In accordance with the foregoing, claims 11, 29 and 38 have been amended. Claims 1-8, 10-17, 28-35, 37-44, 46-53, 55-62, and 92-101 are pending and under consideration.

**I. Rejections under 35 USC §112**

Claims 11, 29 and 38 stand rejected under 35 USC § 112, second paragraph, as being indefinite for failing to point out and distinctly claim the subject matter which the applicant regards as the invention. Claims 11, 29 and 38 have been amended to more clearly set forth “the first length”, “the second length” and “the third length”. Accordingly, it is respectfully requested that the rejections be withdrawn.

**II. Rejections under 35 USC §102 and §103**

The pending claims were variously rejected under 35 USC § 102 (b) and §103(a) based upon U.S. Patent No. 5,439,760 to Howard et al. (“760”) and U.S. Patent No. 5,549,717 to Takeuchi et al. (“717”).

As was previously pointed out in the Response to Office Action Of February 7, 2001 mailed by Applicant on May 8, 2001, the present application is a continuation-in-part of U.S. Patent No. 6,051,038 to Howard et al., which itself is a divisional application of U.S. Patent No. 5,439,760 (the '760 patent).

On page 7 of the final Office Action mailed July 31, 2001, the Examiner responds by stating that the '760 patent does not teach the feature, recited in the claims of the present application, that the anode current collector is shorter than the alkali metal strip. However, it is respectfully asserted that the '760 patent does teach this feature. For example, as pointed out by the Examiner at page 5, lines 13-17 of the July 31, 2001 final Office Action, the '760 patent teaches, "in Figure 10 and in column 6, lines 53-65 that the length of the alkali metal strip (15) is longer than the length the cathode current collector". Therefore, it is respectfully asserted that since the '760 patent teaches that the anode current collector is shorter than the alkali metal strip, as admitted by the Examiner, the Examiner's assertion that the instant claims are not entitled to the filing date of the '760 patent is in error, and therefore reliance on the parent '760 patent for teaching the claimed invention is erroneous. Furthermore, since the instant claims are entitled to the filing date of the '760 patent, the '717 patent is not applicable because it is antedated by the '760 patent. Accordingly, there are no teachings of the present invention in the prior art and it is therefore respectfully requested that the rejections be withdrawn. ← cath. c.!

### **III. Reference to Marked-up Version of Changes**

Attached hereto is a marked-up version of the changes made to the specification and claims by the current amendment. The attached page is captioned "**VERSION WITH MARKINGS TO SHOW CHANGES MADE**".

### **IV. Conclusion**

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

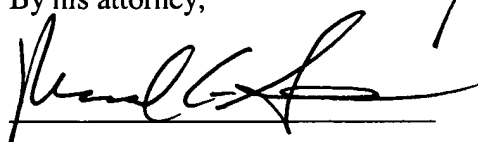
No amendment made was related to the statutory requirements of patentability unless expressly stated herein; and no amendment made was for the purpose of narrowing

- the scope of any claim, unless Applicant has argued herein that such amendment was made to distinguish over a particular reference or combination of references.

Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned attorney to attend to these matters.

Respectfully submitted,

William G. Howard,  
By his attorney,

A handwritten signature in black ink, appearing to read "Michael C. Soldner", is written over a horizontal line. A long, sweeping diagonal stroke extends from the top right of the signature towards the upper right corner of the page.

Date: October 1, 2001

Atty: Michael C. Soldner  
Reg. No. 41,455  
MEDTRONIC, INC.  
7000 Central Avenue N.E.  
Minneapolis, Minnesota 55432  
(763) 514-4842

**VERSION WITH MARKINGS TO SHOW CHANGES MADE**

**In the claims:**

Claims 11, 29 and 38 have been amended as follows:

11. (TWICE AMENDED) The electrode assembly of claim 10, wherein the second [height] length is about 90%, about 80%, about 70%, about 60%, about 50%, about 40%, about 30%, about 20%, about 15%, about 10%, or about 5% shorter than the first [height] length.

29 (TWICE AMENDED) The electrode assembly of claim 28, wherein the second [height] length is about 90%, about 80%, about 70%, about 60%, about 50%, about 40%, about 30%, about 20%, about 15%, about 10%, or about 5% shorter than the third [height] length.

38. (TWICE AMENDED) The electrode assembly of claim 37, wherein the second [height] length is about 90%, about 80%, about 70%, about 60%, about 50%, about 40%, about 30%, about 20%, about 15%, about 10%, or about 5% shorter than the first [height] length.